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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,477	07/07/2003	Kevin Moore	ITW-14218.70	7793

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EXAMINER

SIPOS, JOHN

ART UNIT PAPER NUMBER

3721

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/614,477

Applicant(s)

MOORE, KEVIN

Examiner

John Sipos

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 25-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/7/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### ***REJECTIONS OF CLAIMS BASED ON FORMAL MATTERS***

The following is a quotation of the second paragraph of 35 U.S.C. ' 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1-8,10 and 19-24** are rejected under **35 U.S.C. ' 112, second paragraph**, as being **indefinite** for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "turner/diverter" is unclear in that no function or definition for either "turner" or "diverter" is set forth in the claims. Furthermore, it is unclear in the claims whether these two words are directed to a single mechanism performing the same function.

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### ***REJECTIONS OF CLAIMS BASED ON PRIOR ART***

The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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**Claims 1-10,12-17 and 19-24** are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Schlueter (3,991,640). The patent to Schlueter shows a package forming machine comprising of a carrier stock feed drum 32, a jaw drum 14, a carrier stock feed trough 36, an container input orienting conveyor 11, a package turner/diverter 41,42 and cut-off wheel 44 with a plurality of knives 50. Although the controller for the whole machine of Schlueter is not set forth, it is inherent that a controller synchronizes all the various mechanisms

of the machine. The use of an electronic controller system is well known in the packaging art and it would have been obvious to one skilled in the art to use an electronic one to increase the efficiency of the machine.

The use of color-coded elements of a machine (claims 3-5), adjustable jaws and drums (claims 6,11,14-16, 23 and 24), proximity sensors (claims 8 and 17) and container star wheels (claim 13) are well known in the container packing art and the modification of Schlueter accordingly would have been obvious to one skilled in the art for their known benefits.

**Claim 18** is rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Shlueter (3,991,640), as applied to the claims above, and further in view of the patent to Cunningham (5,054,257). The patent to Cunningham shows a package forming machine comprising of a carrier stock feed mechanism, a jaw drum 29, an container input orienting conveyor 15, a package turner/diverter conveyor with a plurality of lugs (see Figure 4) and cut-off mechanism. It would have been obvious to one skilled in the art to provide the Schlueter machine with a turner/diverter conveyor having a plurality of lugs to orient and feed the packages out of the machine. The use of interchangeable lugs on a conveyor to allow for different size packages is well known in the art and it would have been obvious to one skilled in the art to provide the Schlueter/Cunningham conveyor with such lugs to allow the manufacturing of different size packages.

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### ***ADDITIONAL REFERENCES CITED***

The following prior art is made of record but has not been relied upon in the rejection of claims. However, the prior art is considered pertinent to applicant's disclosure.

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The cited patents show container packaging machines with stock drums, jaw drums and cutting mechanisms.

The patent to Ungar shows a cutting wheel with a plurality of knives.

The patent to Griffin shows a machine with package orienting conveyors with lugs (see Figure 9).

The patent to Cervantes, Weaver and Krogman show adjustable machines.

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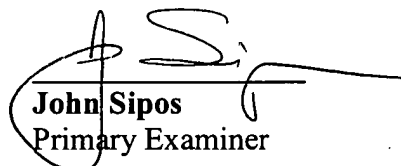
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **571-272-4668**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 872-9302**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at **571-272-4467**.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.

  
**John Sipos**  
Primary Examiner